

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 89-483-E - ORDER NO. 90-23 ✓

JANUARY 17, 1990

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| IN RE: Carolina Power & Light Company - |) | ORDER GRANTING |
| Application for Authority to Issue |) | AUTHORITY TO ISSUE |
| and Sell Securities |) | AND SELL ADDITIONAL |
| |) | SECURITIES (LONG- |
| | | TERM DEBT) |

This matter comes before the Public Service Commission of South Carolina (the Commission) upon an Application of Carolina Power & Light Company (the Company or CP&L) filed on December 8, 1989, requesting authority to issue and sell additional long-term debt.

FINDINGS OF FACT

1. The Company's correct name and post office address is Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602; and the name and post office address of its attorney is Adrian N. Wilson, Post Office box 1551, Raleigh, North Carolina 27602.

2. The Company is a corporation organized and existing under the laws of the State of North Carolina, with its principal office at 411 Fayetteville Street, Raleigh, North Carolina, and is a public utility operating in North Carolina and South Carolina, where it is engaged in the business of generating, transmitting, delivering, and furnishing electricity to the public for

compensation.

3. The Company's capital stock outstanding at September 30, 1989 consisted of Common Stock with a stated value of \$1,620,765,000 and Preferred Stock having a stated value of \$377,118,000. As of September 30, 1989, the retained earnings of the Company were \$804,831,000.

The Company's existing long-term debt at September 30, 1989, amounted to principal amounts of \$2,360,250,000 in First Mortgage Bonds and \$341,342,000 in other long-term debt. The First Mortgage Bonds were issued under and pursuant to an Indenture of Trust dated as of May 1, 1940, duly executed by the Company to Irving Trust Company of New York, as Corporate Trustee, succeeded by The Bank of New York, which is presently acting as Corporate Trustee, and Frederick G. Herbst, as Individual Trustee, succeeded by Wafaa Orfy, who presently is acting as Individual Trustee, as supplemented by forty-seven Supplemental Indentures.

4. The Company presently projects that its capital requirements, excluding the open market purchases of Common Stock as described in paragraph 7 below, will total \$561 million in 1990, of which \$458 million is net expenditures for construction and nuclear fuel. In addition, the reduction in market interest rates since the early 1980s has generated early redemption opportunities for existing higher coupon long-term debt and preferred stock, and further refunding opportunities should develop if interest rates decline.

5. Pursuant to the provisions of its Charter and for the

purposes hereinafter stated, the Company proposes to issue and sell additional long-term debt in an amount not to exceed an aggregate of \$300 million.

6. The net proceeds to be received from the proposed issuance of not to exceed \$300 million in additional long-term debt will be used for (i) the Company's ongoing construction and maintenance program, (ii) general corporate requirements including but not limited to the repayment of short-term borrowings, (iii) the refunding of outstanding issues of First Mortgage Bonds and/or preferred stock having rates higher than market rates determined at the time of any sale of additional long-term debt securities, and (iv) as described below in greater detail, the open market purchase of shares of the Company's Common Stock, without par value.

7. Pursuant to the approval of this Commission in Docket No. 89-483-E, the Company on October 2, 1989, issued and sold 6,818,181 shares of its Common Stock, without par value, to Wachovia Bank & Trust Company, N.A., as Trustee ("Trustee") of the Company's Stock Purchase-Savings Plan, for an aggregate purchase price of approximately \$300 million. All but \$1,000 of the purchase price was loaned to the Trustee by the Company (the "ESOP Loan"), which was evidenced by a non-recourse promissory note (the "Note"). The Company anticipates that the Note will be satisfied in full on or prior to its December 31, 1989, maturity date by the Trustee's refinancing of the ESOP Loan with a third party lender. The Company intends to make a loan to the Trustee in an amount

sufficient to enable the Trustee to refinance its indebtedness to the third party lender on a permanent basis. Some portion or all of the net proceeds from the issuance and sale of First Mortgage Bonds or other long term debt as contemplated in the Application will thereafter be used for the open market purchase of shares of the Company's Common Stock, without par value, as approved by this Commission in Docket No. 89-483-E, in order to reduce the number of shares of outstanding Common Stock to the level existing immediately prior to the October 2, 1989, issuance and sale to the Trustee.

8. The Company will consider the issuance of First Mortgage Bonds, debt instruments sold to European investors ("Eurobonds") or unsecured debt. The Company continuously monitors rates, terms and conditions for alternative forms of debt financing and will determine which type of security offers the most favorable terms to the Company. In general, the Company will only consider issuing additional long-term debt for refunding purposes when the new issue can be priced at least .5% below the break-even rate of the issue to be refunded and if the refunding yields net present value savings of \$500,000 or more. (Break-even rate includes consideration of call premium and issuance expenses.)

9. The Company proposes to issue additional long-term debt either in discrete financing transactions or pursuant to a continuous offering program ("Secured Medium-Term Note Program"). The issuance of First Mortgage Bonds or other long-term debt in a discrete financing transaction would occur in a manner similar to

the issuances which were authorized by this Commission in Docket No. 86-203-E, Order No. 86-429. Under the Secured Medium-Term Note Program, First Mortgage Bonds which will be referred to as Secured Medium-Term Notes for marketing purposes would be continuously offered and issued in a manner similar to the issuances which were authorized by this Commission in Docket No. 88-624-E, Order No. 89-35, in an aggregate principal amount not exceeding \$200 million.

10. The Company proposes to enter into negotiations with investment bankers or other financial institutions to act as agents, dealers, underwriters, or direct purchasers of either the public or private offering of each issuance of First Mortgage Bonds or other long-term debt in accordance with the terms of an underwriting or purchase agreement in the case of a discrete financing transaction or a sales agency or distribution agreement in the case of the Secured Medium-Term Note Program in a form similar to that attached to the Application as Exhibit A or Exhibit B, respectively. The Company intends to informally determine the method of sale and the financial institution(s) which will offer the most favorable terms to the Company. When the underwriting or purchase agreement or sales agency or distribution agreement or similar documents have been executed, copies will be filed with this Commission as Supplemental Exhibits in this proceeding.

11. The Company estimates that it will incur expenses in the range of approximately \$100,000 in connection with a private placement of debt securities to approximately \$150,000 for a public

offering of First Mortgage Bonds, together with underwriters' or agents' fees.

12. If the proposed issuance and sale of additional long-term debt pursuant to the Application is not approved by the Commission, the Company's position is that it will be unable to realize certain expected tax and other savings which will benefit both the Company and ratepayers. If approval is delayed, the expected benefits accruing to the Company and ratepayers will likewise be delayed.

13. The Company's First Mortgage Bonds will be sold under the provisions of the First Mortgage and Deed of Trust dated May 1, 1940. The Company has a right to sell additional First Mortgage Bonds of any one or more Series on the basis of property additions, other than funded property as defined in Section 5 of Article 1 of the said Mortgage and Deed of Trust for a principal amount not exceeding seventy (70) percentum of the cost or fair value thereof to the Company whichever is less. The Company has sufficient property additions to support the issuance and sale of First Mortgage Bonds for the purposes set forth above.

14. For any First Mortgage Bonds sold, the Company proposes to create, execute and deliver additional Supplemental Indentures to the Mortgage and Deed of Trust dated as of May 1, 1940, to The Bank of New York (successor to Irving Trust Company) and Wafaa Orfy (successor to Frederick G. Herbst), as Trustees, such additional Supplemental Indentures to be substantially in the form attached to the Application as Exhibit C in the case of a discrete financing transaction or Exhibit D in the case of the Secured Medium-Term

Note Program.

15. The Company will file a Registration Statement with the Securities and Exchange Commission in connection with any public issuance of additional long-term debt pursuant to the authority requested in the Application and will file copies thereof in this proceeding as a Supplemental Exhibit.

16. The Company's capital structure is such that, according to the Company, it is appropriate and reasonable to issue and sell First Mortgage Bonds or other long-term debt and the issuance and sale of long-term debt is a necessary step to obtain funds to (i) redeem higher coupon debt issues, (ii) obtain a portion of the funds needed for general corporate purposes including the repayment of short-term debt, and (iii) repurchase on the open market shares of the Company's Common Stock, without par value.

CONCLUSIONS

From a review and study of the Application, its supporting data, and other information in the Commission's files, the Commission finds that the transaction or transactions herein proposed:

- (i) Are for a lawful purpose and are within the corporate purposes of the Company;
- (ii) Are compatible with the public interests;
- (iii) Are necessary and appropriate for and consistent with the proper performance by the Company of its service to the public;
- (iv) Will not impair its ability to perform that service; and
- (v) Are reasonably necessary and appropriate for such

purposes.

The Commission approves the Application, in part, because it believes that a properly administered Employee Stock Ownership Plan (ESOP) provides potential incentives for increased employee efficiency and productivity which could benefit South Carolina ratepayers over time.

The Commission also approves this Application, in part, on the basis that at an appropriate time any net benefits realized by the Company through this particular transaction or any related subsequent transactions will be shared with the ratepayers of South Carolina.

The approval of the leveraged ESOP does not bind the Commission as to the ratemaking treatment of the following items including, but not limited to, revenues, expenses, losses or effects on the cost of debt or equity capital. Any such treatment for ratemaking purposes shall be addressed in the context of a general rate case proceeding.

The Commission would also like the following information to be provided on a quarterly basis:

1. Identify in dollar value any impact that the leveraged ESOP had on the capital structure of the Company (debt, equity) during the quarter (reflects quarterly changes).
2. Identify the dollar value of the capital structure of the Company a) showing the existing capital structure with the impact of the leveraged ESOP, and b) the capital structure that would have existed without the leveraged ESOP.
3. Identify any dollar savings resulting from the leveraged ESOP over the plan previously utilized by the Company.

4. Provide a general description of the use of any savings realized by the Company from the leveraged ESOP.
5. Provide information concerning any changes in the bond rating of CP&L attributable to the changes resulting from the leveraged ESOP.
6. Identify the contributions by the Company to the leveraged ESOP.
7. Identify the tax effects of the Company's contributions to the leveraged ESOP.
8. Identify the tax effects of the dividends under the leveraged ESOP.

IT IS THEREFORE ORDERED:

1. That Carolina Power & Light Company be, and hereby is authorized, empowered, and permitted under the terms and conditions set forth in the Application to issue and sell additional long-term debt in an amount not to exceed \$300 million and to execute and deliver such instruments, documents, and agreements as shall be necessary or appropriate to effectuate such transaction or transactions.

2. That the Company file with the Commission a Report of Sale for each transaction within thirty (30) days of closing.

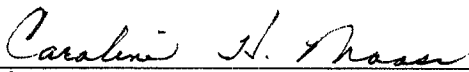
3. That at the appropriate time, any net benefits realized by CP&L through this transaction or any related subsequent transaction will be shared with the ratepayers of South Carolina.

4. That approval of this Application does not bind the Commission as to the ratemaking treatment of the following items including, but not limited to, revenues, expenses, losses, or effects on the cost of debt or equity capital. Any such treatment for ratemaking purposes shall be addressed in the context of a

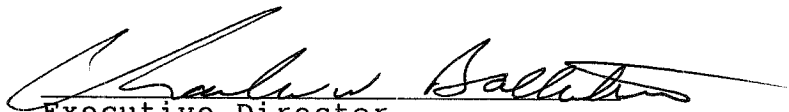
general rate case proceeding.

5. That the reporting requirements set out hereinabove should be provided on a quarterly basis.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)